

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE**

**TIMOTHY OAKLEY and)
MONICA OAKLEY,)
)
)
Plaintiffs,)
)
VS.) No. 3:10-0931
) JURY DEMANDED
**ALLSTATE INSURANCE COMPANY) JUDGE NIXON
and HOMESITE INSURANCE) MAGISTRATE JUDGE GRIFFIN
COMPANY OF THE MIDWEST,)
)
Defendants.)****

**HOMESITE INSURANCE COMPANY OF THE MIDWEST'S
MOTION TO DISMISS**

Defendant, Homesite Insurance Company of the Midwest, moves the Court to dismiss plaintiffs' claims against it with prejudice pursuant to Fed. R. Civ. P. 12(b)(6).

Plaintiffs contend that they were insureds under a homeowners insurance policy issued by Allstate and Homesite. In the complaint, plaintiffs attempt to make claims for breach of contract, bad faith, and violation of the Tennessee Consumer Protection Act.

GROUNDS

The complaint fails to state a claim upon which relief can be granted for any of plaintiffs' three theories of recovery. The bare bones complaint lacks sufficient factual content to show that plaintiffs are entitled to relief as required by Fed. R. Civ. P. 8(a).

The complaint should be dismissed with prejudice pursuant to

Fed. R. Civ. P. 12(b) (6). Homesite submits a memorandum of law in support of this motion.

S/Patrick Witherington
Tracy Shaw, No. 7172
Andy Rowlett, No. 16277
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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was served via the electronic filing system upon Mike Breen, 870 Fairview Avenue, Suite 5, P. O. Box 3310, Bowling Green, KY 42102-3310; Zale Dowlen, 108 Lauren Drive, White House, TN 37188; and David Waldrop, Waldrop, Barnett, Lazarov & Nearn, PC, 9032 Stone Walk Place, Germantown, TN 38138, on this 10th day of November, 2010.

S/Patrick Witherington

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